



An  
Bord  
Pleanála

## Inspector's Report ABP-316637-23

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**Type of Appeal**

Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map

**Location**

Woodbrook, Shankill, Co. Dublin

**Planning Authority**

Dun Laoghaire-Rathdown County Council

**Planning Authority Reg. Ref.**

DM22/0040

**Appellant(s)**

Aeval Unlimited Company

**Inspector**

John Duffy

## 1.0 Site Location and Description

- 1.1. The subject lands are located at Woodbrook, to the south of Shankill and north of Bray, Co. Dublin. The lands have frontage onto the Old Dublin Road which links Shankill Village and Bray and are located immediately to the west of Woodbrook Golf Club with the DART line located to its east. To the north, the site is adjoined by Shanganagh cemetery which comprises two burial areas connected by an access road running along the northern boundary of the subject lands. To the south of the site there is a complex of protected structures including Woodbrook House. Dwellings are presently under construction on the subject lands.

## 2.0 Zoning and Other Provisions

- 2.1. In the Dun Laoghaire Rathdown County Development Plan 2022 – 2028 the site is governed by zoning objective 'A1' - 'To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans.'
- 2.2. Table 2.9 of the Development Plan titled 'DLR Residential Development Capacity Audit – Aggregate Data (Accurate as of Q4 2019)' identifies land at Woodbrook – Shanganagh as both Tier 1 and Tier 2 lands.
- 2.3. Section 2.3.7.2 of the Development Plan states the following in respect of Tier 1 and Tier 2 lands:
- *Tier 1 lands are serviced, and in general, part of or contiguous to the built-up footprint of an area.*
  - *Tier 2 lands are not currently sufficiently serviced to support new development but have potential to become fully serviced within the lifetime of the Plan. Tier 2 lands may be positioned within the existing built-up footprint, or contiguous to existing developed lands, or to Tier 1 zoned lands.*
  - *While the County Development Plan may include zoned land which cannot be serviced during the lifetime of the Plan, they cannot be categorised as either Tier 1 or Tier 2 lands. Such lands cannot be zoned for development or included within the Core Strategy for calculation purposes.*

- 2.4. The subject lands are within the boundary of the Woodbrook – Shanganagh Local Area Plan (LAP). This LAP was adopted by the Council at the July 2017 Council meeting and came into effect on 1st August 2017. On the 12<sup>th</sup> September 2022 the LAP was extended in accordance with the legislation for a further period of 5 years from the 11th October 2022.

The land is subject to Specific Local Objectives (SLO) 103 which states: 'To accord with the policies of the adopted Woodbrook/Shanganagh Local Area Plan.'

SLO 111 applies to the DART line adjoining the lands to the east and states: 'To provide a DART Station at Woodbrook.'

- 2.5. Section 5.5 / Table 14 of the LAP sets out the phasing schedule for the Woodbrook lands.

### **3.0 Planning History**

#### Subject site

ABP-305844-19 – SHD application granted in 2020 for 685 no. residential units (207 no. houses, 478 no. apartments), creche and associated site works.

D07A/1716 - Permission refused for a mixed use development of circa 70,668 square metres to include neighbourhood centre, 537 residential units (mix of apartments, duplexes and terraced houses) and open spaces.

### **4.0 Submission to the Local Authority**

- 4.1. The appellant made a submission to the Local Authority seeking to have the subject lands removed from the RZLT map given that significant works are required to cater for residential development permitted by the SHD application, specifically provision of wastewater services.

### **5.0 Determination by the Local Authority**

- 5.1. The Local Authority determined that the site was in scope. The land is zoned solely or primarily for residential use. It is reasonable to consider it may have access or be

connected to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity available for such development. It is reasonable to consider the land is not affected in terms of its physical condition by matters to a sufficient extent to preclude the provision of dwellings.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The following points are made in support of the appeal:

- Opposed to the RZLT which is a punitive tax.
- Developers should not face a long period of RZLT exposure where there is an active effort to develop houses or where there are long delays in the planning system.
- Agree the subject lands are in scope given their residential zoning.
- As of 1<sup>st</sup> January 2022, according to section 2.3.7.2 of the Development Plan the lands were not considered to be sufficiently serviced to support new development but have the potential to become fully serviced within the lifetime of the Plan. This position is contrary to the Local Authority's decision to include the subject lands on the RZLT map.
- Reference made to Table 2.9 (DLR Residential Development Capacity Audit) of the Development Plan. A deficiency in terms of water services and transportation infrastructure was noted by the Local Authority. As such lands should not be deemed in scope on 1<sup>st</sup> January 2022.
- Appendix 1 of the Development Plan identified that water network extensions of infrastructure were required to facilitate growth. The works required a new watermain to be constructed from Shanganagh Park to the site entrance and are due for completion in Q2 2023. In terms of wastewater infrastructure an interim rising main is required along with a new effluent pumping station to serve both Woodbrook Phase 1 (which has the benefit of planning permission) and the LDA's Shanganagh Castle development. These works were not completed as of 1<sup>st</sup> January 2022.

- Prior to Phase 2 of Woodbrook (which does not yet have the benefit of planning permission) a permanent rising main is required to be provided from Shanganagh Park to Shanganagh WWTP a distance of approximately 2.6 kms. These works are expected to commence in Q4 2023 and comprise very significant works to be undertaken by a third party, outside of the control of the appellant. As such the subject lands should be out of scope for the purpose of the RZLT map.
- Wastewater infrastructure requirements of the permitted development include a pumping station, an emergency storage tank, rising main and internal wastewater network, none of which were in place on 1<sup>st</sup> January 2022. These significant works are not adequate to cater for Phase 2 on the remaining Woodbrook lands.
- While having the benefit of planning permission, works on construction of Woodbrook DART Station have not commenced. This project constitutes very significant works outside the control of the developer. Works have commenced on the Woodbrook internal distributor road but are not completed. Reference made to Table 14 of the LAP which provides the infrastructure phasing schedule for the area.
- The lands should be removed from the RZLT map given that there is significant works to be undertaken to provide the required connection to services such as waste water services to facilitate the development of these lands which were not in place in January 2022.

## 6.2. Planning Authority Response

- No response on file.

## 7.0 Assessment

- 7.1. The comments raised in the appeal submission are noted as is the evaluation report of the Planning Authority which was received by An Bord Pleanála. The site identified for inclusion on the RZLT map is zoned for residential use and the Planning Authority determined that the site remain on the RZLT map.

- 7.2. The grounds of appeal raise the issue of water supply and wastewater infrastructure. Uisce Éireann's (UÉ's) report to the Planning Authority dated 30<sup>th</sup> January 2023 notes that the site is serviceable given that a watermain is located in the Dublin Road to the west of the site which has some capacity. The report notes that 'Completion of the LIHAF funded project will allow the full site to be serviced.'
- 7.3. In terms of wastewater networks, the UÉ report confirms that the site is not serviced. It states: 'An interim pumping station and rising main is currently under construction by the developer. A strategic pumping station to serve the wider area is required for full development of the site.' I note however that dwellings are currently under construction on the site and that the provision of the interim pumping station and rising main allows development to proceed. I consider the extant SHD application on the subject lands (ABP-305844-19) for 685 no. residential units is indicative that the land is serviced or has access to services including wastewater infrastructure necessary for the provision of dwellings to be developed.
- 7.4. The appellant has made reference to both Woodbrook DART Station and the Woodbrook internal distributor road, indicating that because these infrastructural elements have not been delivered the lands should not be in scope for RZLT purposes. I note that Table 14 of the LAP which relates to the phasing schedule for the lands confirms the distributor road is to be provided by the developer and the NTA is to provide the DART Station 'in tandem with delivery of initial phases of residential development.' I note that permission has been secured for the DART station and that the internal distributor road is under construction. I consider that the subject lands are accessible and serviced from the adjoining road network.
- 7.5. The remaining Grounds of Appeal do not relate to any of the relevant qualifying criteria set out in Section 653B of the Act.
- 7.6. In conclusion, I am of the opinion that the land satisfies criterion 653B (b) and that it is serviced or has access to services necessary for dwellings to be developed and with sufficient service capacity available for such development.

## 8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the Local Authority and that the indicated site be retained on the map.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the determination by the Local Authority, the submitted grounds of appeal, the provisions of section 653B of the Taxes Consolidation Act 1997, as amended, the site (zoned for residential use) is considered in scope for the purposes of the RZLT map.

I confirm that the report represents my professional planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

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John Duffy  
Planning Inspector

26<sup>th</sup> September 2023